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LETTER DATED 19 JULY 1999 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to forward, enclosed herewith, the letter of Mr. Momir Bulatovic, President of the Federal Government of the Federal Republic of Yugoslavia, of 16 July 1999, regarding your report on the United Nations Interim Administration Mission in Kosovo and Metohija of 12 July 1999 (S/1999/779) submitted to the Security Council pursuant to paragraph 20 of its resolution 1244 (1999) (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

Annex

Letter dated 16 July 1999 from the President of the Federal Government of the Federal Republic of Yugoslavia addressed to the Secretary-General

The Government of the Federal Republic of Yugoslavia has carefully examined your report on the United Nations Interim Administration Mission in Kosovo and Metohija of 12 July 1999 (S/1999/779) submitted to the Security Council pursuant to paragraph 20 of its resolution 1244 (1999) of 10 June 1999. The importance of the report is all the greater since some aspects of it may have far-reaching consequences, not only on the process of the stabilization of the overall situation in Kosovo and Metohija, but in the wider region as well.

Security Council resolution 1244 (1999) has unequivocally reaffirmed the sovereignty and territorial integrity of the Federal Republic of yugoslavia in Kosovo and Metohija and it clearly defined a framework for the international civil and security presences in that Serbian province. Strict respect for the sovereignty and territorial integrity of the Federal Republic of Yugoslavia is the only valid basis for the activities of all participants in the implementation of resolution 1244 (1999) and for a future political settlement for Kosovo and Metohija. Acts that violate this principle are not in the interest of stabilizing the situation nor of its political resolution.

As you will recall, the Federal Republic of Yugoslavia has fulfilled all its obligations under Security Council resolution 1244 (1999) and related documents. Therefore, it rightfully insists that all the other actors, primarily the United Nations Interim Administration Mission in Kosovo and Metohija (UNMIK) and KFOR, do the same. The current situation in Kosovo and Metohija, however, indicates that compliance with the letter and spirit of resolution 1244 (1999) to date has been far from satisfactory. Also, the report gives rise to serious review of disrespect for the letter and spirit of the resolution, or major overstepping of the mandate and authority of UNMIK.

The report rightly focuses attention on the very grave security problems in Kosovo and Metohija that have arisen following the withdrawal of the Yugoslav security forces. For the sake of impartial information of the members of the Security Council, it is necessary to underline the fact that these have primarily been a result of the security gap after the pull-out of the Yugoslav security forces and the lack of any control over entry into the Federal Republic of Yugoslavia via the unguarded border crossings with Albania and the former Yugoslav Republic of Macedonia. Taking into account the admission by KFOR and UNMIK officials that they do not have a force sufficient to ensure either full security of Yugoslav borders or personal and property safety in Kosovo and Metohija, we believe that, pursuant to resolution 1244 (1999) (para. 4), and its annex II (para. 4), there is a need for an early return of representatives of the Yugoslav Army (VJ) and police (MUP) and other competent authorities of the Federal Republic of Yugoslavia at international border crossings, in order to establish full and effective customs, passport and visa services and criminal, sanitary, phytopathological and other controls.

Owing to the uncontrolled crossing-over of armed groups of Albanian terrorists and bandits, systematically abusing, intimidating, abducting and killing non-Albanian populations and looting, stealing and destroying their property, as well as making forced entries into people's homes, burning churches and places of worship, there followed a massive exodus of Serbs and Montenegrins from Kosovo and Metohija. Since the United Nations Mission arrived, more than 130,000 persons have been forced out; over 60 have been killed (some were massacred and cut to little pieces); more than 190 have been abducted or gone missing. Approximately 20 Serbian villages have been burned down. In Pristina alone, five monuments of culture have reportedly been pulled down. All this indicates that KFOR and UNMIK need to take, without delay, energetic measures to disarm, urgently and completely, members of the so-called "KLA" and other armed Albanian bandit groups terrorizing the people of Kosovo and Metohija. This is a key precondition for an unimpeded and safe return of all displaced persons and for the maintenance of the multi-ethnic, multi-confessional and multicultural nature of the Province and, thereby, the successful implementation of Security Council resolution 1244 (1999).

The Yugoslav Government raises major objections regarding the concept of the mandate and powers of UNMIK as outlined in paragraphs 34 to 42 of the report, in contravention of the provisions and the spirit of resolution 1244 (1999) reaffirming the territorial integrity and sovereignty of the Federal Republic of Yugoslavia.

In this respect, we single out, in particular, a statement (contained in paragraph 35 of the report) that the Security Council, in its resolution 1244 (1999), has de facto vested in the interim civil administration authority "over the territory and people of Kosovo". This not only introduces a non-existent category of the people of Kosovo, but suggests that UNMIK takes over from the legitimate governmental bodies and authorities in the Federal Republic of Yugoslavia their inviolable sovereignty over the executive, legislative and judicial authority in Kosovo and Metohija. This is a violation, in particular, of paragraph 10 of resolution 1244 (1999), as confirmed in annex II, paragraph 5 clearly defining the limits of the "interim administration mission".

Indeed, resolution 1244 (1999) authorizes the Secretary-General of the United Nations to establish "an international civil presence" in Kosovo and Metohija (paragraphs 10 and 11), with a view to ensuring an interim administration and a substantial autonomy within the Federal Republic of Yugoslavia. In accordance with the international standards, "a substantial autonomy" implies that some specific powers and rights, such as the right to the use of language, education and information in one's own tongue, protection and fostering of one's own culture and tradition as well as local administration affairs, are transferred to the autonomous region, which takes place within the framework of a broader constitutional and legal order in a sovereign State.

The Special Representative of the Secretary-General does not and cannot enjoy the powers to decide at his own discretion the validity of Yugoslav laws in Kosovo and Metohija, because it is an integral part of the constitutional, legal, economic, financial, fiscal, monetary, foreign currency, customs, transport and other systems of the Republic of Serbia and those of the Federal

Republic of Yugoslavia. That, in turn, implies the obligation on the part of UNMIK and KFOR to respect and enforce the applicable Yugoslav laws and to enable the unhindered activities of administrative and judicial authorities and other institutions and public services of the Federal Republic of Yugoslavia and the Republic of Serbia. Particularly unacceptable are efforts aimed at undermining the economic system of the Federal Republic of Yugoslavia - the essential elements of which are the monetary, tax and customs systems - as an inalienable category of sovereignty and accomplishment of the market economy. There is no basis whatsoever for it in resolution 1244 (1999).

Paragraph 37 of the Secretary-General's report, implying a violation of the right to private and State-owned property, is unacceptable as it is not based either on the Charter or on any other international legal document, including resolution 1244 (1999). Furthermore, the positions, in paragraphs 39 and 40, on the legislative, judicial and executive functions of the Special Representative of the Secretary-General are not based on international law or on resolution 1244 (1999). They represent a violation of the universal principles concerning the division of power into legislative, executive and judicial and cannot be the proper way of successfully implementing resolution 1244 (1999), especially not for a democratic and political solution.

There is also a need to implement fully the Yugoslav laws on the visa regime and on identification documents (identity cards, passports, etc.) that are in force, because the issue of citizenship and residence is one of the most important elements in the enjoyment of human and civil rights and in the protection of these rights, including the voting rights of individuals. In this context, unacceptable also is the view, presented in the report, that Serbs should be treated as an ethnic minority in their own State and the attempt to select for them, while ignoring their legitimately elected representatives, individuals and political parties to represent their interests. The principled positions on this have been explained in greater detail in the statement of the Federal Republic of Yugoslavia of 6 July 1999 and in the statement of the Government of the Republic of Serbia of 5 July 1999, as well as in the letters of 28 June and 7 July 1999 from Federal Minister for Foreign Affairs, Živadin Jovanović, to the Security Council and to the Secretary-General of the United Nations.

The Federal Republic of Yugoslavia, for its part, remains open to full cooperation with the international mission in Kosovo and Metohija and stands ready to conclude a comprehensive agreement that will regulate all matters related to cooperation in the implementation of resolution 1244 (1999).

In anticipation that you will use your influence with the Security Council to have our comments acknowledged by it, I extend to you the assurances of my highest consideration.

(Signed) Momir BULATOVIĆ